



## FAQs for New NY Broadband Program – New York CAF Auction

### I. Post-Selection Process

#### A. What is an eligible telecommunications carrier?

In order to receive universal service support, an entity must be designated by the state(s) where it is seeking to offer service or the FCC (if the relevant state lacks jurisdiction over that entity) as an eligible telecommunications carrier (ETC). Recipients of support must offer voice telephony service on a common carrier basis throughout their service territory, among other requirements.

#### B. How can a company become an ETC in New York?

The New York Public Service Commission (New York PSC) has jurisdiction over wireline ISPs seeking to be designated as an ETC in New York. Such companies New York Public Service Commission (New York PSC) must file an application with the New York PSC. Wireless and satellite providers must seek ETC designation directly with the FCC.

#### C. What is the process for wireless or satellite providers seeking to obtain an ETC designation from the FCC?

Carriers seeking designation as an ETC from the FCC pursuant to section 214(e)(6) of the Telecommunications Act of 1996, 47 U.S.C. § 214(e)(6), must demonstrate that they fulfill the requirements of section 214(e)(1), 47 U.S.C. § 214(e)(1), and section 54.202 of the Commission's rules, 47 C.F.R. § 54.202. Any carrier petitioning the FCC for designation must provide an affirmative statement from the New York PSC that it lacks jurisdiction. Petitioners also must certify that neither the petitioner nor any party to the application is subject to a denial of federal benefits, including FCC benefits, pursuant to section 5301 of the Anti-Drug Abuse Act of 1988, as implemented in section 1.2002 of the Commission's rules (47 C.F.R. § 1.2002). All petitions to be designated an ETC must reference WC Docket No. 09-197 and may be filed using the FCC's Electronic Comment Filing System (ECFS) at <https://www.fcc.gov/ecfs/>.

After a provider files a petition for ETC designation directly with the FCC, the Wireline Competition Bureau (WCB) will release a public notice establishing a pleading cycle for comments on the petition. Based on the evidence in the record, WCB will then promptly decide the merits of the request as soon as possible.

If the company fails to meet the burden of proof that it is not subject to the New York PSC's jurisdiction, WCB will dismiss the request and direct the company to seek ETC designation from the New York PSC.

**D. Upon announcement of the winning bidders in the New York auction that will be serving areas eligible for Connect America support, to whom should winning bidders provide the required letter of credit?**

Provisionally selected bidders must submit at least one irrevocable stand-by letter of credit and Bankruptcy Code opinion letter from their legal counsel for the provisionally selected bids. Original letters of credit must be submitted to the Universal Service Administrative Company by the applicable deadline. Specific instructions on submitting the letter of credit will be forthcoming.

**E. What is the initial review process the FCC will take to confirm that winning bidders meet Connect America eligibility requirements?**

After receiving all relevant information from New York, the Commission will conduct a preliminary review of winning bidders selected by the New NY Broadband Program, and alert New York to any FCC concerns, such as delinquent debts with the FCC (see, e.g., 47 CFR 1.1910). Selected bidders must comply with post-selection requirements – including a bidder’s long-form application, the associated required documentation, and a letter of credit and attorney opinion letter meeting the Commission’s requirements – prior to being authorized to receive federal Connect America support.

**F. Can New York allocate its own State funding before the FCC designates winning bidders as ETCs in the relevant areas?**

Yes, New York can allocate its own funds to winning bidders independent of FCC review or designation of winning bidders as ETCs in the relevant areas. The Commission’s processes only relate to the distribution of Connect America support to winning bidders.